

## Message Text

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41

ACTION TRSE-00

INFO OCT-01 EUR-12 ISO-00 EB-07 H-02 L-03 CIAE-00 INR-07

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P 091621Z SEP 75

FM AMEMBASSY WARSAW

TO SECSTATE WASHDC PRIORITY 7213

LIMITED OFFICIAL USE WARSAW 5940

E.O. 11652: N/A

TAGS: EFIN, PL

SUBJECT: U.S.-POLAND INCOME TAX CONVENTION

REF STATE 205354

1. SUMMAR: ACCORDING TO OFFICIALS OF POLAND'S FINANCE MINISTRY, IF THE PROVISION FOR RETROACTIVE ENTRY INTO FORCE IS STRICKEN FROM THE DOUBLE TAXATION CONVENTION, THOSE U.S. FIRMS IN POLAND WHICH ARE NOT SUBJECT TO TAX UNDER THE CONVENTION WOULD BE OBLIGED TO PAY TAXES COVERING THE PERIOD JANUARY 1, 1974 (OR THE DATE THEY OBTAINED LICENSES TO OPERATE IN POLAND), AND THE DATE THE TREATY ENTERS INTO FORCE.
  2. THE MINISTRY EXPECTS POLISH LEGISLATIVE PROCEDURES ON THE CONVENTION TO BE COMPLETED IN TWO OR THREE MONTHS, BUT ADDED THAT THE PROCESS COULD MOVE MORE QUICKLY IF THE U.S. IS PREPARED FOR EARLIER RATIFICATION. END SUMMARY.
  3. IN DISCUSSING THE TAX LIABILITY OF U.S. FIRMS UNDER THE CONVENTION, POLISH OFFICIALS POINTED OUT THAT THE DISTINCTION BETWEEN "COMMERCIAL OFFICES", I.E., THOSE THAT ARE EMPOWERED TO SIGN CONTRACTS AND HENCE ARE SUBJECT TO POLISH TAXES, AND NON-PERMANENT ESTABLISHMENTS, SOMETIMES TERMED "TECHNICAL OFFICES" BY U.S. FIRMS, IS A CREATION OF THE CONVENTION. THE FIRMS OF COUNTRIES WHICH DO NOT HAVE A DOUBLE-TAXATION AGREE-
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MENT WITH POLAND ARE ALL TAXED ACCORDING TO THE REGULATIONS

WHICH UNDER OUR TREATY APPLY ONLY TO COMMERCIAL OFFICES. OFFICES WHICH DO NOT HAVE AUTHORITY TO SIGN CONTRACTS ARE NOT CONSIDERED PERMANENT ESTABLISHMENTS UNDER THE TREATY AND ARE THEREFORE NOT SUBJECT TO TAX WHEN THE TREATY IS IN FORCE. THESE NON-COMMERCIAL OFFICES, I.E., CONTROL DATA, HEWLETT-PACKARD, IBM, INTERNATIONAL HARVESTER, MONSANTO, AND SINGER, AND THEIR U.S. EMPLOYEES, WILL ALL BE SUBJECT TO PAYMENT OF BACK TAXES TO THE POLISH GOVERNMENT, IF THE DOUBLE TAXATION CONVENTION DOES NOT ENTER INTO FORCE RETROACTIVELY TO JANUARY 1, 1974.

4. COMMENT: IN OUR JUDGMENT, A CHANGE IN THE EFFECTIVE DATE OF THE INCOME TAX CONVENTION FROM THE DATE SPECIFIED IN ARTICLE 25 WOULD WORK A SIGNIFICANT HARDSHIP ON THE SIX FIRMS WHICH WOULD BE AFFECTED AND ON THEIR EMPLOYEES WHO ARE SUBJECT TO U.S. TAXES. WE HOPE THAT SUCH AN OUTCOME CAN BE AVOIDED. THE DEPARTMENT OR THE SENATE COMMITTEE MAY WISH TO CONSULT WITH THE U.S. HEADQUARTERS OF THESE FIRMS.

5. ACTION REQUESTED: PLEASE ADVISE WHEN SENATE ACTION ON THE TREATY IS EXPECTED TO BE COMPLETED AND INFORM US OF THE APPROXIMATE LENGTH OF TIME REQUIRED, FOLLOWING SENATE ACTION, FOR PREPARATION OF THE INSTRUMENT OF RATIFICATION.  
DAVIES

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## Message Attributes

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